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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,320	09/06/2000	Douglas G. Delany		9073
49056 7590 05/07/2008 LIEBERMAN & BRANDSDORFER, LLC 802 STILL CREEK LANE GAITHERSBURG, MD 20878				
			EXAMINER KARMIS, STEFANOS	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 05/07/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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LIEBERMAN & BRANDSDORFER, LLC
802 STILL CREEK LANE
GAITHERSBURG, MD 20878

TECHNOLOGY CENTER 3600

In re Application of	:	
Delaney et al.	:	DECISION ON PETITION
Application No. 09/656,320	:	UNDER 37 CFR §1.181
Filed: September 6, 2000	:	
Attorney Docket No.: BEA9-2000-0003-US1	:	
For: METHOD FOR USAGE BILLING IN	:	
AN INTERNET ENVIRONMENT	:	

This is a decision on applicants' petition under 37 CFR 1.181 filed July 28, 2006 requesting that the amendment filed April 27, 2006 be entered.

The petition is **DENIED**.

The record reflects that on June 13, 2005 Applicants filed a Request for Continued Examination along with an Amendment to the claims. In response, the Examiner issued a Non-Final Office Action on September 14, 2005. Applicants then filed a response on December 14, 2005 amending claims 1, 6 and 11 and adding new claims 18, 19 and 20. Next, the Examiner issued a Final Office action on February 27, 2006. Applicants followed that with a Response After Final on April 27, 2006 which included amendments to claims 1, 6 and 11, placing these claims in the identical condition as the claims filed on June 13, 2005.

In the petition filed July 28, 2006 requesting entry of the amendment filed April 27, 2006, Applicants argue that the refusal to enter the amendment is unfair because the amendment of April 27, 2006 does not raise any new issues since the proposed claim changes put the claims in the identical condition as submitted in the response filed June 13, 2005 and therefore have already been considered by the Examiner.

MPEP 714.12 sets forth that once a final rejection that is not premature has been entered in an application, applicant or patent owner no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. Also, amendments

complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(b). Ordinarily, amendments filed after the final action are not entered unless approved by the examiner. See MPEP 706.07(f), 714.13 and 1207. MPEP 714.13 (III) sets forth that the refusal to enter the proposed amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or where the issues on appeal are simplified. Ordinarily, the specific deficiencies of the amendment need not be discussed. However, if the proposed amendment raises the issue of new matter, the examiner should identify the subject matter that would constitute new matter. If the proposed amendment presents a new issue requiring further consideration and/or search, the examiner should provide an explanation as to the reasons why the proposed amendment raises new issue that would require further reconsideration and/or search. The reasons for nonentry should be concisely expressed. For example: (A) the claims, if amended as proposed, would not avoid any of the rejections set forth in the last Office action, and thus the amendment would not place the case in condition for allowance or in better condition for appeal.

With regard to Applicants' argument that the refusal to enter the amendment is unfair because the amendment put the claims in identical condition as provided in the response of June 13, 2005, it is noted that Applicants' argument is not correct. Specifically, in the Response filed December 14, 2005 Applicants not only amended claims 1, 6 and 11 but also added new claims 18, 19 and 20. As a result, when Applicants amended claims 1, 6, and 11 on April 27, 2006 to place these claims back in the identical condition as filed on June 13, 2005, Applicants did not cancel claims 18, 19 and 20. This resulted in a combination of elements for claims 18, 19 and 20 which have never been considered by the Examiner.

Accordingly, the non-entry of the amendment filed April 27, 2006 is considered appropriate as: (1) the examiner has appropriately and fairly treated Applicants' remarks; (2) the amendment did raise new issues; and (3) the proposed changes do not place the case in condition for allowance or in better condition for appeal.

Summary: The petition is **DENIED**.

Any question regarding this decision should be directed to Supervisory Patent Examiner Jay Kramer at (571) 272-6783.

for 
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(571) 272-5350

WG/jk: 4/26/08

